

Specifically, MPEP § 706.07(a) indicates that a “second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant’s amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) . . .” (emphasis added).

Here, the Examiner has introduced at least one new ground of rejection - claims 1-36 as being unpatentable over claims 1-76 of US Application No. 09/612,534, which was not cited in the December 22, 2004 *Office Action*. This new rejection was not necessitated by applicant’s amendment, but rather by the Examiner’s erroneous indication of a different pending US Application in the December 22, 2004 *Office Action*. Nor was this new rejection based upon information submitted in an information disclosure statement (IDS) during the 37 C.F.R. § 1.97(c) period.

Thus, Applicant respectfully submits that this is an improper “Final” *Office Action*, and requests the corresponding withdrawal of the “Finality.”

Rejection Under Obviousness-Type Double Patenting

The Examiner has rejected claims 1-36 as being unpatentable over: (1) claims 1-76 of US Application No. 09/612,534; and (2) claims 1-19 of U.S. Application 09/750,475, under the judicially created doctrine of obviousness-type double patenting.

As this is a provisional rejection, based only upon pending patent Applications, Applicant elects to defer addressing the merits of the provisional rejection until one of the cited pending Applications issues. Such deferral of addressing the merits of the rejection is clearly contemplated by MPEP § 804(I)(B), which states that a “provisional” double patenting rejection

is designed simply to make Applicant aware of a potential problem. No response on the merits is required, as no patented claims are available to be analyzed. Applicant reserves the right to address the merits of the provisional double patenting rejection or submit a terminal disclaimer to obviate the rejection.

Art Rejections

The Examiner has rejected: (1) claims 1-4, 8, 10-15, 19, 21-27, 31 and 33-36 under 35 U.S.C. § 102(e) as being anticipated by *Polizzi et al.* (US 2002/0023158; hereinafter “*Polizzi*”); and (2) claims 5-7, 9, 16-18, 20, 28-30 and 32 under 35 U.S.C. § 103(a) as being unpatentable over *Polizzi*.

Independent Claims 1, 14 and 25

In the March 22, 2005 *Amendment*, Applicant pointed out that *Polizzi* fails to teach or suggest a port module “to interface between the interface module and the data source,” as recited in claims 1, 14 and 25. Specifically, Applicant disagreed with the Examiner’s allegation that the recited “port module” was disclosed by agents 130 in FIG. 1 of *Polizzi*, as there is no teaching or suggestion that *Polizzi*’s agents 130 provide any particular “interface” between: (1) network interface 105 (alleged by the Examiner to be similar to the recited “interface module”); and (2) databases 135, 140, 145 and 150 (alleged by the Examiner to be similar to the recited “data source”).

The Examiner disagrees in the instant *Office Action*, and alleges that:

[(1)] Polizzi clearly illustrated [*sic - illustrates*] a plurality of service agent [*sic - agents*], i.e., port module, interface between web client, i.e., module interface and database ... [;]

[(2)] In applicant’s disclosure, the term “module” is referred to as any form of computer executable code ... [A]pplicant fails to distinguish port

module from interface module and connection manager, let alone distinguish from web client, and service agent in Polizzi. Since they all can be implanted [*sic* - implemented] in [*sic* - the] form of software, firmware or the like and they all comprise software instructions, they can either be presented in [*sic* - the] form of object, module function or the like. The only requirement that may differentiate one from the other is the structural different [*sic* - difference] ... [; and]

[(3)] For instance, while one end of the interface module interfaces with [*sic* - the] remote application, e.g., [*sic* - the] web browser (spec. page 13), the other end of the interface module interfaces with [*sic* - the] data source. Applicant is directed to Polizzi's figure 1, which illustrates [*sic* - a] web client, a software module that [*sic* - is] being utilized by a server for interfacing with [*sic* - the] web browser, and service agents, i.e., software module, that interfaces between [*sic* - the] web client and [*sic* - the] data sources. Polizzi's teaching meets the requirement of claims 1, 14 and 25.

Applicants continue to disagree.

Regarding the Examiner's allegation (1) above, Applicant again respectfully disagrees with the Examiner's assertion that any of *Polizzi*'s agents 130 are a "port module," as recited in claims 1, 14 and 25. *Polizzi* actually discloses that these agents 130 are provided to perform specific tasks within portal 120 under the control of service broker 125, such as operating as a name server 225 or authentication server 220 (FIG. 2, pars. 0035 and 0040). Although these agents 130 are disclosed as being capable of retrieving data from databases 135, *etc.* for use in their respective tasks, there is no teaching or suggestion that these agents 130 are at all capable of interfacing between databases 135, *etc.* (alleged to be the "data source") and network interface 105 (alleged to be the "interface module"). Rather, Polizzi indicates that service broker 125 controls all communication with network interface 105 (see pars. 0089-0093).

Regarding the Examiner's allegation (2) above, while the term "module" in, *e.g.*, independent claim 1, should indeed be construed broadly, Applicant respectfully submits that the "interface module," "port module," and "connection manager" recited in, *e.g.*, independent claim

1, provide different functions, as recited therein. For the Examiner's convenience, Applicant also directs him to the further exemplary (non-limiting *vis-à-vis* claim 1) descriptions of these elements on pages 13-15 of the Application.

Further, Applicant respectfully submits that, *e.g.*, independent claim 1 is directed to a "method," and the "interface module," "port module," and "connection manager" recited therein each have a particular function related to defining interactions between a remote application and a data source. Thus, the Examiner's allegation that Applicant has not structurally differentiated the "interface module," "port module," and "connection manager" is irrelevant to an analysis of independent claim 1. Rather, what is relevant to an analysis of claim 1 is whether the applied reference, *Polizzi*, discloses features that provide the functionality of an "interface module," "port module," and "connection manager." As noted throughout this *Response*, Applicant respectfully submits that *Polizzi* fails to teach such features.

Regarding the Examiner's allegation (3) above, Applicant disagrees with the Examiner's analysis. While Applicant agrees that network interface 105 (alleged by the Examiner to be similar to the claimed "interface module") interacts with users 100, Applicant disagrees with the Examiner's assertion that network interface 105 "interfaces" with databases 135, 140, 145 or 150, as discussed above.

Even more specifically, the only evidence the Examiner identifies that network interface 105 "interfaces" with databases 135, 140, 145 or 150 is a citation to FIG. 1 of *Polizzi*. However,

FIG. 1 merely shows the various elements of *Polizzi*.¹ The actual function of the elements shown in FIG. 1 (and FIG. 2) is described in, *inter alia*, paragraphs 0004, 0025-0029, 0035-0048, and 0089-093. These portions of *Polizzi* specify that: (1) portal system 120 is interposed between users 100 and databases 135, etc. to function as a translator; and (2) that the portal system 120 receives requests for data, uses specific “jobs” to obtain requested data from the databases, and then organizes and transmits the output of those “jobs” (output reports), all of which is managed by the service broker 125. Thus, there is no specific “connection” between the users 100 and databases 135. Rather, the only connection that the users 100 have is to the service broker 125, which can provide output reports according to the previously run “jobs.”

Independent Claims 1, 14 and 25 - Argument 2

In the March 22, 2005 *Amendment*, Applicant also pointed out that *Polizzi* fails to teach or suggest “selectively establishing an arbitrary set of user-selectable parameters to reflect a status of a connection between the remote application and the data source,” as recited in independent claim 14; or “a log file comprising parameters arbitrarily selectable by a user to reflect a status of a connection between the remote application and the data source desired to be monitored by a user,” as recited in independent claim 25. This is because no particular “connection” between users 100 (alleged by the Examiner to be similar to the recited “remote application”) and databases 135, etc. (alleged by the Examiner to be similar to the recited “data source”) is taught or suggested therein.

¹ Further, FIG. 1 is not believed to be prior art to this Application, as it was not contained in Provisional Application 60/200,290, which the Examiner must rely on to antedate the effective filing date of the instant Application.

The Examiner disagrees in the instant *Office Action*, and alleges that, since the page 24 of the instant Application indicates that at least one parameter of an arbitrary set of user-selectable parameters includes “a time,” and since paragraph 0061 of *Polizzi* discloses a time event 505, *Polizzi* discloses the claimed features.

Applicants respectfully disagree. Even if time event 505 of *Polizzi* could be read as being similar to one of the claimed “parameters,” *Polizzi* still fails to teach or suggest any particular connection between users 100 and databases 135, etc, for at least the reasons discussed above.

Accordingly, for at least the above reasons, Applicant respectfully submits that independent claims 1, 14 and 25 are patentable over the applied reference.

Dependent Claims

Applicant respectfully submits that rejected dependent claims 2-13, 14-24 and 26-36 are: (1) allowable *at least* by virtue of their dependency; and (2) separately patentable over the applied reference.

For example, Applicant respectfully submits that the applied reference fails to teach or suggest “selectively establishing a set of parameters to reflect a status of a connection between the remote application and the data source,” as recited in claim 2, for at least the reasons discussed above with respect to independent claims 14 and 25.

Thus, at least for the reasons discussed above, Applicant respectfully requests that the Examiner withdraw the current rejections of the pending claims.

Response Under 37 C.F.R. § 1.116
US Appln No. 09/750,432

Docket No. A8645 /
ST9-99-134US2

Conclusion

In view of the foregoing, it is respectfully submitted that claims 1-36 are allowable.

Thus, it is respectfully submitted that the application now is in condition for allowance with all of the claims 1-36.

If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Please charge any fees which may be required to maintain the pendency of this application, except for the Issue Fee, to our Deposit Account No. 19-4880.

Respectfully submitted,



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